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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SKYWEST PILOTS ALPA ORGANIZING
COMMITTEE, *et al.*,

Plaintiffs,

vs.

SKYWEST AIRLINES, INC.,

Defendant.

CASE No. C-07-2688 CRB

**OPPOSITION TO DEFENDANT'S
REQUEST TO SHORTEN TIME**

Plaintiffs oppose Defendant SkyWest Airlines, Inc.'s ("SkyWest's") request to shorten time. The Court has already set an expedited briefing schedule on Plaintiffs' motion for a preliminary injunction, and SkyWest has not adequately demonstrated why an even shorter schedule is needed. *See* May 22, 2007 Temporary Restraining Order ("TRO") and Order to Show Cause re: Preliminary Injunction, at 3 (SkyWest's brief due Monday; Plaintiffs due Tuesday; hearing scheduled for Wednesday).

SkyWest is also incorrect to argue that its application will only shorten time by one day. *Contra* Request at 2–3. The two-day procedure in Rule 65(b) only applies when a temporary

1 restraining order was granted *without notice*, which is not the case here. *See* Fed.R.Civ.P. 65(b)
2 (motion to dissolve may heard on two days' notice "to the party who obtained the temporary
3 restraining order *without notice*") (emphasis added). Plaintiffs provided SkyWest with advance
4 notice of their application for a temporary restraining order. *See* Decl. of Notice to Opp'n and in
5 Support of Temporary Restraining Order by Linda Lye (filed May 22, 2007). Thus, the abbreviated
6 Rule 65(b) procedure is inapplicable and SkyWest is not seeking merely a one-day shortening of
7 time.

8 Further, as Plaintiffs will demonstrate in the opposition they intend to file shortly to
9 SkyWest's Motion to Dissolve, the Norris-LaGuardia Act ("NLGA") did *not* deprive this Court of
10 jurisdiction to enter its temporary restraining order. *See, e.g., Virginian Railway Co. v. System*
11 *Federation No. 40*, 300 U.S. 515 (1937) (NLGA did not bar injunction entered to protect RLA
12 rights); *Fed. Express Corp. v. Teamster Union, Local No. 85*, 617 F.2d 524, 526 (9th Cir. 1980)
13 (when "specific legal command of the RLA is violated," Norris-LaGuardia does not bar entry of an
14 injunction).

15 Federal Rule of Civil Procedure 65(b) is also inapplicable because Plaintiffs did provide
16 SkyWest with "notice" of its application. 29 U.S.C. §107 (providing that TRO may be entered
17 before hearing). And, even if Rule 65(b) did apply, Plaintiffs made a more than sufficient factual
18 showing. *See, e.g.,* Decl. of Steve Dow in Support of Temporary Restraining Order and
19 Preliminary Injunction ¶13 (describing immediate need for TRO). Any necessary findings may
20 easily be made in Plaintiffs' amended order (which Plaintiffs will submit with their opposition brief
21 shortly).

22 Finally, SkyWest employees clearly have standing to enforce their rights under the RLA.
23 *See, e.g., Arcamuzi v. Continental Air Lines, Inc.*, 819 F.2d 935 (9th Cir. 1987) (individual pilot
24 plaintiffs sued to enforce their RLA-protected rights; recognizing that they had "implied private
25 right of action" under the statute and reversing denial of their motion for preliminary injunction);
26 *Watt v. Energy Action Educational Foundation*, 454 U.S. 151, 160 (1981) (only one plaintiff with
27 standing is necessary).

1 For these reasons, Plaintiffs oppose SkyWest's request to shorten time. If the Court is
2 nonetheless inclined to shorten time for the motion to dissolve, Plaintiffs request that any hearing
3 not occur until Friday, to give Plaintiffs sufficient time to file, and the Court sufficient time to
4 review, an opposition to SkyWest's motion to dissolve.

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6 Dated: May 23, 2007

Respectfully submitted

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